

CE 93-07/12/93

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Bklyn Union Gas

NY0006978795

Brooklyn Union
Gas Company
Response to
RCRA Sec. 3007
Request
Attachments
Volume I
1-9 (part)

Attachment 1 Brooklyn Union Remote Facility Information (Question 1a(i))

Location	Street Address	Block	Lot	Property SF	Building Type	Building SF	Building Age (Years)	Owner	Years of Ownership of Property
Canarsie SS	8302-8624 Ditmas Ave.	7920	96	379,000	See Footnote #1.	223,440	70+	BUG	69
Canarsie GS	336-354 E 83 St.	7918	171	49,800	Block Masonry	2,880	35	BUG	69
Clifton Distr. Ctr.	25 Willow Ave.	2841	91	153,700	Steel Frame, Brick	30,400	26	BUG	37*
Clifton GS	40 Willow Ave.	2842	50	13,500	Block Masonry, Brick	706	65+	BUG	37*
Clifton Property	Willow Ave. & Bay St.	2842	58,60,61,62,65,68	32,400	Parking Lot	0	-	BUG	23-28
General Office	195 Montague St.	244	5	23,500	Steel Frame	262,500 ²	31	BUG	32
Grasmere SS	2071 Clove Rd.	2921	6	98,400	Wood Framed, Brick	36,900 ³	65+	BUG	37*
Grasmere GS	2071 Clove Rd.	2921	6	1,500	Block Masonry	1,500	50+	BUG	37*
Newtown HS	7801 57 Ave.	2805	31	261,000	Steel Frame, Block Masonry	124,000	80+	BUG	84
Newtown Satellite	7801 57 Ave.	2806	1	18,700	Block Masonry	2,600	24	BUG	84
Red Hook Satellite	651 Court St.	494	1	60,000	Block Masonry	5,280	21	Red Hook Realty	N/A
Citizens GS	77 6 St.	990	138	36,900	Block Masonry	1,500	28	BUG	70
Kennedy GS	W Hangar Rd.- JFK Airport	-	-	22,900	Block Masonry	1,035	22	NYC	N/A

SS = Service Station

GS = Gate Station

HS = Holder Station

* Based on Merger Date With
Richmond County Gas

1 The Canarsie Service Station includes 6 buildings as follows:

Building	Type	Total SF	# Floors
Bldg. 23/23A	Concrete Framed	105,102	4
Building 24	Brick Framed	9,831	1
Building 26-27	Steel Framed	24,181	3
Building 29-31	Concrete, Wood Framed	34,318	3
Building 40	Brick Framed	49,608	4
Building 45	Brick Framed	400	1

2 14 Story Building

3 2 Story Building

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, made the 20th day of ~~April~~ 1970, by and between THE PORT OF NEW YORK AUTHORITY (hereinafter called "the Port Authority"), a body corporate and politic established by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America and having an office at 111 Eighth Avenue, in the Borough of Manhattan, in the City, County and State of New York 10011, and THE BROOKLYN UNION GAS COMPANY (hereinafter called "the Lessee"), a corporation of the State of New York, having an office and place of business at 195 Montague Street, Brooklyn, New York 11201, whose representative is James E. McCartney, Secretary,

WITNESSETH, That:

The Port Authority and the Lessee, for and in consideration of the covenants and mutual agreements hereinafter contained, covenant and agree as follows:

Section 1. Letting

(a) The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority at John F. Kennedy International Airport (sometimes hereinafter referred to as "the Airport") in the Borough of Queens, City and State of New York the ground space shown in stipple on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with all fixtures, improvements and other property, if any, of the Port Authority located or to be located or to be constructed therein or thereon, the said lands, buildings, structures, fixtures, improvements, additions and other property of the Port Authority being hereinafter collectively referred to as "the premises".

(b) Except to the extent required for the performance of the obligations of the Lessee hereunder, nothing contained in this Agreement shall grant to the Lessee any rights whatsoever in the air space above the premises in excess of an elevation of 45 feet.

Section 2. Construction by the Lessee

(a) The Lessee hereby agrees, at its sole cost and expense to design and to construct on the area shown in stipple on Exhibit A, a Gate Station which will meter, clean, odorize, reduce pressure and regulate the flow of gas through the Lessee's gas pipe system within the Airport, including appropriate lighting and fencing, appropriate lines, pipes, manholes, conduits and other facilities required in connection with or relating to the operation of the Gate Station including connections to the existing electrical and water utility service lines, all of the foregoing being hereinafter sometimes hereinafter referred to as "the construction work" or "the Installation".

(b) Prior to the commencement of the construction work, the Lessee shall submit to the Port Authority for the Port Authority's approval, complete plans and specifications therefor. The Port Authority may refuse to grant approval, if, in its opinion, any of the proposed construction work as set forth in said plans and specifications (all of which shall be in such detail as may reasonably permit the Port Authority to make a determination as to whether their requirements hereinafter referred to are met) shall:

(i) Be unsafe, unsound, hazardous or improper for the use and occupancy for which it is designed, or

(ii) Not comply with the Port Authority's requirements for harmony of external architecture of similar existing or future improvements at the Airport, or

(iii) Not comply with the Port Authority's requirements with respect to external and interior building materials and finishes of similar existing or future improvements at the Airport, or

(iv) Not provide for sufficient clearances for taxiways, runways and apron areas, or

(v) Be designed for use for purposes other than those authorized under the Lease, or

(vi) Set forth ground elevations or heights other than those prescribed by the Port Authority, or

(vii) Not comply with the provisions of the Basic Lease, including without limiting the generality thereof, the provisions of Section 21 of the Basic Lease providing that the Port Authority will conform to the enactments, ordinances, resolutions and regulations of the City of New York and its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation to the extent that the Port Authority finds it practicable so to do, or

(viii) Be in violation or contravention of any other provisions and terms of the Lease, or

(ix) Not comply with all applicable governmental laws, ordinances, enactments, resolutions, rules and orders, or

(x) Not comply with all applicable requirements of the New York Board of Fire Underwriters and the New York Fire Insurance Exchange, or

(xi) Not comply with the Port Authority's requirements with respect to landscaping, or

(xii) Not comply with Port Authority's requirements and standards with respect to noise, air pollution, water pollution or other types of pollution.

(c) All construction work shall be done in accordance with the following terms and conditions:

(1) The Lessee hereby assumes the risk of loss or damage to all of the construction work prior to the completion thereof and the risk of loss or damage to all property of the Port Authority arising out of or in connection with the performance of the construction work. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the construction work and the property of the Port Authority without cost or expense to the Port Authority. The Lessee shall itself and shall also require its contractors to indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and

employees from and against all claims and demands, just or unjust, of third persons (including employees, officers, and agents of the Port Authority) arising or alleged to arise out of the performance of the construction work and for all expenses incurred by it and by them in the defense, settlement or satisfaction thereof, including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential, whether they arise from the acts or omissions of the Lessee, of any contractors of the Lessee, of the Port Authority, or of third persons, or from acts of God or of the public enemy, or otherwise, excepting only claims and demands which result solely from affirmative wilful acts done by the Port Authority, its Commissioners, officers, agents and employees subsequent to the commencement of the construction work.

(2) Prior to engaging or retaining an architect or architects for the construction work, the name or names of said architect or architects shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any architect who may be unacceptable to it. All construction work shall be done in accordance with plans and specifications to be submitted to and approved by the Port Authority prior to the commencement of the construction work, and until such approval has been obtained the Lessee shall continue to resubmit plans and specifications as required. Upon approval of such plans and specifications by the Port Authority, the Lessee shall proceed diligently at its sole cost and expense to perform the construction work. All construction work, including workmanship and materials, shall be of first class quality. The Lessee shall re-do, replace or reconstruct at its own cost and expense, any construction work not done in accordance with the approved plans and specifications, the provisions of this Section 2 or any further requirements of the Port Authority.

(3) Prior to entering into a contract for any part of the construction work, the Lessee shall submit to the Port Authority for its approval the names of the contractors to whom the Lessee proposes to award said contracts. The Port Authority shall have the right to disapprove any contractor who may be unacceptable to it. The Lessee shall include in all such contracts such provisions and conditions as may be required by the Port Authority.

(4) The Lessee shall furnish or require its architect to furnish a full time resident engineer during the construction period. The Lessee shall require certification by a licensed engineer of all pile driving data and of all controlled concrete work and such other certifications as may be requested by the Port Authority from time to time.

(5) The Lessee agrees to be solely responsible for any plans and specifications used by it and for any loss or damages resulting from the use thereof, notwithstanding the same have been approved by the Port Authority and notwithstanding the incorporation therein of Port Authority recommendations or requirements. Notwithstanding the requirements for approval by the Port Authority of the contracts to be entered into by the Lessee or the incorporation therein of Port Authority requirements or recommendations, and notwithstanding any rights the Port Authority may have reserved to itself hereunder, the Port Authority shall have no liabilities or obligations of any

kind to any contractors engaged by the Lessee or for any other matter in connection therewith and the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising or alleged to arise out of the performance of any construction work pursuant to the contracts between the Lessee and its contractors. Any warranties contained in any construction contract entered into by the Lessee for the performance of the construction work hereunder shall be for the benefit of the Port Authority as well as the Lessee.

(6) The Port Authority shall have the right, through its duly designated representatives, to inspect the construction work and the plans and specifications thereof, at any and all times during the progress thereof and from time to time, in its discretion, to take samples and perform testing on any part of the construction work.

(7) The Lessee agrees that it shall deliver to the Port Authority "as-built" cloth (or other material satisfactory to the Port Authority) drawings (capable of being reproduced) of the construction work and shall during the term of this Lease keep said drawings current showing thereon any changes or modifications which may be made. (No changes or modifications to be made without Port Authority consent.)

(8) The Lessee shall, if requested by the Port Authority, take all reasonable measures to prevent erosion of the soil and the blowing of sand during the performance of the construction work, including but not limited to the fencing of the premises or portions thereof and the covering of open areas with asphaltic emulsion or similar materials as the Port Authority may direct.

(9) The Lessee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the construction work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the premises or the Airport.

(10) The Lessee shall procure and maintain comprehensive general liability insurance, including automotive, with a contractual liability endorsement covering the obligations assumed by the Lessee pursuant to subparagraphs (1) and (5) of this paragraph (c) which shall be in addition to all policies of insurance otherwise required under the Lease or the Lessee may provide such insurance by requiring each contractor engaged by it for the construction work to procure and maintain such insurance including such contractual liability endorsement, said insurance not to contain any care, custody or control exclusions, and not to contain any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair coverage under the contractual liability endorsement. Said insurance shall be in not less than the following amounts:

- (i) Bodily Injury Liability:
For injury to or wrongful death
to one person \$1,000,000
For injury or wrongful death to
more than one person for any
one occurrence, \$3,000,000
Aggregate Products liability, \$3,000,000

- (ii) Property Damage Liability:
For all damage arising out of
injury to or destruction of
property in any one occurrence \$10,000,000
Aggregate Property \$10,000,000

The insurance required hereunder shall be maintained in effect during the performance of the construction work. A certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority at least fifteen (15) days prior to the commencement of any work. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving fifteen (15) days' written advance notice thereof to the Port Authority. Each such copy or certificate shall contain an additional endorsement providing that the insurance carrier shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. The aforesaid insurance shall be written by a company or companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement, the Port Authority agreeing not to act unreasonably hereunder.

(11) The Lessee shall be under no obligation to reimburse the Port Authority for expenses incurred by the Port Authority in connection with its normal review and approval of the original plans and specifications submitted by the Lessee pursuant to this Section. The Lessee however agrees to pay to the Port Authority upon its demand the expenses incurred by the Port Authority in connection with any additional review for approval of any changes, modifications or revisions of the original plans and specifications which may be proposed by the Lessee for the Port Authority's approval. The expenses of the Port Authority for any such additional review and approval shall be computed on the basis of direct payroll time expended in connection therewith plus 100%. Wherever in this Lease reference is made to "direct payroll time", costs computed thereunder shall include a prorata share of the cost to the Port Authority of providing employee benefits, including, but not limited to, pensions, hospitalization, medical and life insurance, vacations and holidays. Such computations shall be in accordance with the Port Authority's accounting principles as consistently applied prior to the execution of this Lease.

(12) The Lessee shall prior to the commencement of construction and at all times during construction submit to the Port Authority all engineering studies with respect to construction and samples of construction materials as may be required at any time and from time to time by the Port Authority.

(13) The Lessee shall procure and maintain Builder's Risk Completed Value Insurance covering the construction work during the performance thereof including material delivered to the construction site but not attached to the realty. Such insurance shall name the Port Authority, the City of New York, the Lessee and its contractors and subcontractors as additional assureds and such policy shall provide that the loss shall be adjusted with and payable to the Lessee. Such proceeds shall be used by the Lessee for the repair, replacement or rebuilding of the construction work and any excess shall be paid over to the Port Authority. The policies or certificates representing this insurance shall be delivered by the Lessee to the Port Authority prior to the commencement of construction and each policy or certificate delivered shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon and, also, a valid provision obligating the insurance company to furnish the Port Authority and the City of New York ten (10) days' advance notice of the cancellation, termination, change or modification of the insurance evidenced by said policy or certificate. The insurance shall be written by companies approved by the Port Authority, the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement, the Port Authority agreeing not to act unreasonably hereunder.

(14) The Lessee shall execute and submit for the Port Authority's approval a Construction Application or Applications in the form prescribed by the Port Authority covering the construction work or portions thereof. The Lessee shall comply with all the terms and provisions of the approved Construction Applications. In the event of any inconsistency between the terms of any Construction Application and the terms of this Lease the terms of this Lease shall prevail and control.

(15) Nothing contained in this Lease shall grant or be deemed to grant to any contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the construction work any right of action or claim against the Port Authority, its Commissioners, officers, agents and employees with respect to any work any of them may do in connection with the construction work. Nothing contained herein shall create or be deemed to create any relationship between the Port Authority and any such contractor, architect, supplier, subcontractor or any other person engaged by the Lessee or any of its contractors in the performance of any part of the construction work and the Port Authority shall not be responsible to any of the foregoing for any payments due or alleged to be due thereto for any work performed or materials purchased in connection with the construction work.

(d) The Lessee may wish to commence construction of a portion of the construction work prior to the approval by the Port Authority of its complete plans and specifications for said construction work as required in this Section 2 and if it does it shall submit a written request to the Port Authority setting forth the work it proposes to then do. The Port Authority shall have full and complete discretion as to whether or not to permit the Lessee to proceed with said work. If the Port Authority has no objection to the Lessee's proceeding with the work, it shall do so by writing a letter to the Lessee to such effect. If the Lessee performs the work covered by said letter, it agrees all such work shall be performed subject to and in accordance with all of the provisions of the approval letter and subject to and in accordance with the following terms and conditions:

(1) The performance by the Lessee of the work covered by any request as aforesaid will be at its sole risk and if for any reason the plans and specifications for the construction of which the work is a part are not approved by the Port Authority or if the approval thereof calls for modifications or changes in the work undertaken by the Lessee under any approval granted by the Port Authority pursuant to this paragraph (d), the Lessee will, as directed by the Port Authority, at its sole cost and expense, either restore the area affected to the condition existing prior to the commencement of any such work or make such modifications and changes in any such work as may be required by the Port Authority.

(2) Nothing contained in any approval hereunder shall constitute a determination or indication by the Port Authority that the Lessee has complied with the applicable governmental laws, ordinances, enactments, resolutions, rules and orders, including but not limited to those of the City of New York, which may pertain to the work to be performed.

(3) The approved work will be performed in accordance with and subject to the terms, indemnities and provisions of the Lease covering the construction work and with the terms and conditions of any Construction Application which the Port Authority may request the Lessee to submit even though such Construction Application may not have, at the time of the approval under this paragraph (d), been approved by the Port Authority.

(4) No work under any such approval shall affect or limit the obligations of the Lessee under all prior approvals with respect to its construction of the construction work.

(5) The Lessee shall comply with all requirements, stipulations and provisions as may be set forth in the letter of approval.

(6) In the event that the Lessee shall at any time during the construction of any portion of the construction work under the approval granted by the Port Authority pursuant to this paragraph (d) fail, in the opinion of the Resident Engineer of the Port Authority at the Airport, to comply with all of the

provisions of this Lease, the Construction Application or the approval letter covering the same or be, in the opinion of the said Resident Engineer, in breach of any of the provisions of this Lease, the Construction Application or the approval letter covering the same, the Port Authority shall have the right, acting through said Resident Engineer, to cause the Lessee to cease all or such part of the construction work as is being performed in violation of this Lease, the Construction Application or the approval letter. Upon such written direction from the Resident Engineer, the Lessee shall promptly cease construction of the portion of the construction work specified. The Lessee shall thereupon submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the construction work that has been or is to be performed so that the same will comply with the provisions of this Lease, the Construction Application and the approval letter covering the construction work. The Lessee shall not commence construction of the portion of the construction work that has been halted until such written approval has been received.

(7) It is hereby expressly understood and agreed that the Resident Engineer mentioned in subparagraph (6) above does not have the authority to approve any plans and specifications of the Lessee with respect to the construction work, to approve the construction by the Lessee of any portion of the construction work or to agree to any variation by the Lessee from compliance with the terms of this Lease or the Construction Application or the approval letter with respect to the construction work. Notwithstanding the foregoing, should the Resident Engineer give any directions or approvals with respect to the Lessee's performance of any portion of the construction work which are contrary to the provisions of this Lease, the Construction Application or the approval letter, said directions or approvals shall not affect the obligations of the Lessee as set forth herein nor release or relieve the Lessee from the strict compliance therewith. It is hereby further understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of the construction work by the Lessee and the rights granted to the Port Authority hereunder shall not create or be deemed to create such a duty or obligation. Accordingly, the fact that the Resident Engineer has not exercised the Port Authority's right to require the Lessee to cease its construction of all or any part of the construction work shall not be or be deemed to be an agreement or acknowledgment on the part of the Port Authority that the Lessee has in fact performed such portion of the construction work in accordance with the terms of this Lease, the Construction Application or the approval letter nor shall such fact be or be deemed to be a waiver by the Port Authority from the requirement of strict compliance by the Lessee with the provisions of this Lease, the Construction Application and the approval letter with respect to the construction work.